

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.2047 OF 2006

DATED:3.2.2006

Between:

Smt. Saleha Fathima

...Petitioner

And

Municipal Corporation of Nizamabad

...Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.2047 OF 2006

ORDER:

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The petitioner is resident of Nizamabad town. She is allegedly owner of land admeasuring 380.84 Sq.yards in Ward No.9, Block No.9, Bodhan Road, Nizamabad, which she allegedly purchased under registered document dt.12.3.1980. Subsequently, the petitioner sold away an extent of 267.51 Sq.yards to third parties and she is in possession of remaining area where she constructed a tin shed and rented the same to tenants. The rents received from the shops are her only source of income. She alleges that the respondent has initiated action for widening/extending the existing roads and in that connection the respondent

Corporation is demolishing the structures, which are affected by the road widening. It is alleged that the respondent has not initiated any action under the Land Acquisition Act, 1894.

At the stage of admission itself, learned Standing Counsel for Nizamabad Municipal Corporation submits that the petitioner herself occupied the road portion and therefore, land acquisition proceedings need not be vitiated. He, however, does not dispute that as on today the respondent Corporation has not initiated any action either under Section 402 or under Section 405 of the Hyderabad Municipal Corporations Act, 1955. Therefore, in the absence of any procedure that has been followed by the respondent Corporation even if the petitioner is an encroacher of municipal road, she cannot be evicted unless appropriate action is taken against her. Till such action is taken, the petitioner cannot be dispossessed, nor the respondent can demolish the shops constructed by the petitioner.

The Writ Petition with the above observations is accordingly disposed of.

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3.2.2006 (V.V.S.RAO, J)

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